

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**

Conference and Regular Meeting

September 26, 2013

The Conference and Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed, and the meeting will not continue significantly past 10:30 p.m.

**Roll Call:**

Members present were Mr. Bussiculo, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Sullivan, Mr. Delia and Mrs. Granholm. Mr. Miller and Mr. Minkoff were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Mr. Bernstein announced that the Lusardi application has been carried to October 24, 2013 with no further notice required.

**Applications for Review:**

**CARRIED FROM SEPTEMBER 12, 2013:**

**App. #16-13: Michael Hayes, 314 Washington Street, Block 208, Lot 17 (R-10 Zone)**

Proposed new, detached garage (24' x 28' x 20' high) will replace the existing (20' x 20' x 13' high) detached garage. A second-story work shop area is proposed to be built in the new garage and used for a hobby of wood working. In addition, an existing shed (8' x 12' x 10' high) will be relocated. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding "Other Coverage."

Mr. Hayes stated that there was an error in the drawings. His drawings have the height at the peak of the roof as 22' but that number should be 20. Mr. Hayes commented that his architect added windows to make the garage more attractive.

Mr. Bernstein noted that the resolution he prepared will be revised to show the maximum roof height of 20.' Discussion took place about dormers; Mr. Hayes requested that the dormers be allowed.

When asked questions from the Board about the second floor of the garage, Mr. Hayes replied that the second floor would be used for storage space, would be accessible by pull-down stairs and would have a few lights. The Board also had questions about the shed, and Mr. Hayes told the Board it would be removed. Mr. Hayes mentioned that he would like to have approval to possibly erect a shed at a later date. The Board explained that there would be no need to come before the Board again for the shed, because as long as it is located properly and no larger than 100 square feet it would require only Zoning office and/or Building Department approval.

Asked about whether the 20' height was measured from grade to peak, Mr. Hayes confirmed that was the case. Mr. Hayes would have to revise the height on the drawing and initial it. When the Board brought up a concern about runoff, it was noted that the resolution contains a condition that a drainage plan be submitted to the Township Engineer for approval. Also Mr. Hayes requested that the rear yard setback be reduced to 20 feet on the plans due to the lower height of the garage.

Mr. Bernstein went over the changes that would be made to the resolution of approval, the most notable of which are: 1) the garage height would be 20 feet at the peak of the roof and 2) The rear yard setback may be reduced to 20 feet.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments, and the hearing was closed to the public.

A motion was made by Mr. Boyer, seconded by Mr. Delia, to approve Application #16-13: Michael Hayes, 314 Washington Street, Block 208, Lot 17 (R-10 Zone) and adopt the Resolution of Memorialization subject to the conditions discussed at the meeting which shall be set forth in the final draft to be revised by Mr. Bernstein. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

### **CARRIED FROM JULY 11, 2013:**

#### **App. #15-13: Alexander & Yelena Mishkevich, 80 Hillcrest Ave., Bl. 1714, Lot 16**

Proposed principal addition consisting of attached two-car garage, new front entry and new deck which is partially covered with a roof structure. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for front-yard setback, principal rear yard setback, building coverage and total lot coverage. Additional relief is required from Section 8.1.1B1.&2. which prohibits expansion of a nonconforming structure and Section 3.1.8."Decks" due to deck height. (R-15 Zone)

Yelena Mishkevich was sworn. Mr. Bussiculo explained that the last time the applicants appeared before the Board, the Board had requested changes to their plans, so the Board would now need an update on the changes.

Mr. Mishkevich stated that the requested changes were made to their plans. Previous concerns had to do with the distance from the garage to the property line. As a result, the depth of the garage was shortened from 25 feet to approximately 20 feet. The second revision changed the shape of the deck and eliminated the gazebo. Finally, the patio as well as the new walkway would be made of pavers to reduce impervious coverage.

The Board commented that total coverage was 27.73%, i.e. 2.73% above the limit on total coverage.

In response to questions from the Board, Mr. Mishkevich responded that both of their vehicles would be parked in the garage at all times.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application. Mr. Jim Mulcahy, previously sworn, brought up the issue of the garage setback from Hillcrest Avenue. He said that the first plan submission showed a setback of 15 feet, and this subsequent submission is showing a 20 foot setback. Mr. Mulcahy had thought the Board asked for an additional 10 feet so that cars parked on the driveway would not conflict with the township right of way. It was confirmed by the Board that the plans now show 20 feet from the garage to the street, and the applicants' cars would be kept in the garage. Mr. Mulcahy commented that he was surprised to see only a 5' additional setback when he thought the Board had wanted 10 feet. Mr. Bernstein responded that the 10 additional feet may have been mentioned, but the applicants also had to consider how far the garage would go into the backyard. The present plan appears to allow for sufficient room to back up out of the driveway.

There were no further questions or comments from the audience and the hearing was closed to the public.

A motion was made by Mr. Smith, seconded by Mr. Siburn, to approval Application #15-13: Alexander & Yelena Mishkevich, 80 Hillcrest Avenue, Block 1714, Lot 16 (R-15 Zone), subject to standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Sullivan, Mr. Delia, and Mrs. Granholm voting in favor. There were none opposed.

### **App.#19-13: Kevin & Eileen Granelli, 40 Bristol Court, Block 1503, Lot 16**

Proposed one-story addition to rear of this single-family dwelling, second-story addition above existing garage, new covered deck and paver patio. Relief is needed from

Section 6.1.1B. "Schedule of General Regulations" for exceeding the 15% limit on Building Coverage and the 25% limit on Total Coverage (R-15 Zone)

Kevin and Eileen Granelli were sworn. Mr. Jim Ramentol, GRA Architects, was sworn, answered questions about his background and experience and was accepted as an expert witness. The proposed project was briefly described by Mr. Granelli. Mr. Ramentol added that the two variances are for Building Coverage and Total Coverage. Discussion took place about how they might reduce the coverage, for example by reducing the amount of asphalt. The discussion continued about the existing driveway configuration but it was determined that no changes were feasible, and the homeowners would like the existing driveway to remain unchanged.

The Board asked whether there would be much impact on neighbors and if the applicant had brought pictures. Mr. Ramentol presented photographs, and one set was marked into evidence. Discussion took place about the space between the Granelli residence and the neighboring properties – no side setback issues – and explanations of what was on the photos. There was discussion about an easement shown on the survey that was assumed to be a drainage easement and about drainage in general on the property. Due to the proposed substantial addition, Mr. Ramentol assured the Board they would work with the Township Engineer to come up with a satisfactory drainage plan. Mr. Ramentol said that one tree, which had been damaged by the last two storms, would be removed and a tree permit obtained.

It was brought up that the memo from the Environmental Commission mentioned the Green Building Checklist. Discussion continued about whether the Green Building Checklist makes sense for Board of Adjustment applications for single-family homes. Mr. Bernstein mentioned that the Board might suggest that homeowners who go for certain variances be exempted from the Green Building Checklist requirement because they must meet the Building Code in order to be constructed. The Checklist would be an onerous requirement for the single-family homeowner in addition to paying fees and escrow, sending out Legal Notices, etc. The Board may consider sending a letter – yet to be drafted – to the Township Council about the Checklist.

Mr. Bernstein confirmed that the Resolution would contain the standard deck conditions: no Jacuzzi, no hot tub, controlled lighting. There would be no sheds permitted on the property.

There was further discussion about the purpose of the addition, such as creating a mud room and moving rooms to more suitable locations in the house. The second floor studio would be supplemental living space for the kids. Access to that room would be through the house, and an open stair would be part of the existing living space.

**Open to Public**

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments, and the hearing was closed to the public.

A motion was made by Mr. Sullivan, seconded by Mr. Delia, to approve Application #19-13: Kevin & Eileen Granelli, 40 Bristol Court, Block 1503, Lot 16 (R-15 Zone), subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Sullivan, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

**App.#20-13: William L. Gorski, 23 Roosevelt Avenue, Block 1302, Lot 3**

Sheds on property do not conform to Section 6.3.1.B.4. which limits the total area of the sheds to 100 square feet. (R-15 Zone)

Mr. Gorski was sworn and presented photographs he had taken the day before the meeting. The photographs were marked into evidence.

Discussion took place regarding the shed. Mr. Gorski commented that he has kayaks on the ground as well as other items that would be better stored in the shed than on the ground. The new shed addition (48 sq. ft.) would have the same siding as the existing shed and the same asphalt roof. He is removing the other shed (64 sq. feet) which is located on the other side of his property. It was noted that the shed is unfinished and therefore does not look attractive. Mr. Gorski explained that he was told by the Town to stop work on the shed, but he felt that the unfinished state of the shed was negatively affecting the Board's opinion about it. Mr. Gorski commented that no one has come out against this application. The final product will blend with the house and will look better than if he had no shed and put a tarp over his things on the ground. Since the shed is mostly built, he'd love for it to be approved.

Discussion continued about what is in front of the existing shed, what is behind it, and whether it would be possible to change the location of the shed extension. Mr. Gorski responded that this would not be possible. He'd have to knock it down. The shed cannot be moved at all, because it is already built.

Mr. Gorski was informed that construction permits would also be necessary if approved because the shed will be over 100 square feet upon completion. That requires going through Township Zoning and Building Departments. It will have to be inspected and meet Building Code.

Discussion continued with the Board members reiterating that it is difficult to visualize how the shed will look upon completion. Mr. Gorski said he would do whatever it takes to dress up the shed to make the Board happy with the appearance. The addition of windows and window boxes was suggested.

Several Board members commented that sheds are a problem and they find it more difficult to approve [nonconforming] sheds in general.

The issue was raised that an oversized shed (144 square feet) was approved recently by The Board, but it was located on a very large piece of property.

It was noted that some of the Board members view the size of the shed as the main problem, while others had difficulty visualizing how the completed shed will look. Mr. Bernstein suggested that the applicant supply a drawing to show how the shed can be beautified since aesthetics is a concern for some of the Board members, not necessarily size alone.

Mr. Gorski will return to the Board on October 24 with a drawing showing windows and shrubs. His application is carried to October 24 with no further notice required.

**App. #17-13: AM Real Estate LLC (7-ELEVEN), 416 Springfield Avenue, Block 208, Lots 18 & 18.01 (DD-Zone)**

Proposed installation of three free standing ground signs along the frontage of the two lots. These signs are not permitted in the Downtown Zone District. The subject of this application is the 7-Eleven franchise grocery store which received site plan waiver approval by the Berkeley Heights Planning Board (App. #SP-3-13: Mazzocchi Mortaruolo LLC) in May 2013.

Joe Murray, Esq., attorney for the applicant, introduced two prospective witnesses: Joe Bellock, project coordinator for signs from Signs By Tomorrow – they are the sign installers and contractors for the tri-state area for 7-Eleven – and Katie Mortaruolo, one of the principals of the applicant.

Mr. Bussicula summarized that the application is for three signs: an entrance, exit and one directory sign in between the two. His concerns have to do with the proper height and size of the signs.

Mr. Joe Bellock was sworn. He brought modified drawings of the proposed signage which were marked as exhibits.

**Entrance and Exit Signs**

Discussion took place about the proposed entrance and exit signs with regard to height and whether the brick design should be used for the base of the sign or posts. The Board agreed that 3 feet was an acceptable height for these signs (while 2 feet was too low). It was suggested that the brick portion of the sign be reduced to a height of 1 ft. and the sign itself be 2 ft. high for a total height of 3 feet.

There will be no 7-Eleven logo on the entrance and exit signs.

Mr. Bellock stated that the brick material on the proposed signs is actually nichia, which is cementitious board, a faux brick. The brick sample was given to the court reporter to mark as an exhibit. The nichia would match the material on the building itself, which is real brick. The signs would be unlit.

Dan Bernstein added that the location of the signs would be subject to approval by the Township Engineer and also subject to County site plan or waiver for the signs.

### **Directory Sign**

The Board had a concern that the directory sign blocks up a lot of space as far as line of sight.

The sign would be ground lit.

The height of the proposed 7-Eleven directory sign is 6' and would also be subject to County approval.

Discussion returned to concerns related to pulling out of the driveway. Mr. Bellock stated there is approx. 15 feet from the sign to the curb. Mr. Bollock stated that their plan gives enough clearance for a car to exit without any impairment of the view.

Mr. Bernstein stated that the location of the directory sign would also be subject to approval by the Township Engineer.

Mr. Bellock stated that the letters on the directory sign would be engraved gold letters, less than 6" in height. The sign itself is made of high density foam that looks like wood. Since the Engineer will be involved with regard to location of the signs, the Board will require that lighting also be subject to the approval of the Township Engineer. The lighting will be on a timer to match the hours of operation of the store. The same applies to the wall sign. 7-Eleven has two types of logos: the keystone logo and the tri-stripe logo.

Discussion took place as to whether the top of the directory sign should be the curved design or the straight top ("flat sign") and which logo would be more attractive.

Mr. Bullock suggested the bowtop sign with the keystone logo (i.e. the logo without the stripes), which he felt would look "classier." The wall sign would have the stripes.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application.

Michael Hayes, 314 Washington Street, was sworn and stated that his house is located directly behind the 7-Eleven building. He has concerns about light spillage from the 7-Eleven to the property behind.

It was mentioned that the signage lights would be turned off when the business closes at night. There would not be a lot of spillage.

Mr. Hayes commented that he's had problems with the parking lot lighting from that site in the past. It was suggested that Mr. Hayes also talk to the Township Engineer about his lighting concerns. With regard to the wall sign, Mr. Bellock stated that it has a shield on top so that the light would not project upward.

Mr. Bernstein summarized the dimensions and materials of the signs that had been agreed upon as well as the conditions for approval. A motion was made by Mr. Delia, seconded by Mr. Siburn, to approve App.#17-13: AM Real Estate LLC (7-Eleven), 416 Springfield Avenue, Block 208, Lots 18 & 18.01 (DD-Zone), subject to the conditions discussed and the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Sullivan, Mr. Delia, and Mrs. Granholm voting in favor. There were none opposed.

### **Approval of Minutes**

Regular and Conference Meeting – Sept. 12, 2013

A motion was made by Mr. Boyer and carried by unanimous voice vote to adopt the minutes of the September 12, 2013, Regular and Conference meeting as presented.

### **Adjournment**

A motion was made to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 9:30 PM.

Connie Valenti, Secretary